

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

REGINALD JOHNSON,	:	
Plaintiff,	:	
v.	:	Civil Action No. 06-109J
JEFFREY A. BEARD, SECRETARY,	:	
PENNSYLVANIA DEPARTMENT OF	:	
CORRECTIONS, SUPERINTENDENT	:	
ROZUM, S.C.I. SOMERSET, MR.	:	
MULLIGAN, UNIT MANAGER, and	:	
DEPARTMENT OF CORRECTIONS	:	
Defendants	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on May 22, 2006, docket no. 2, recommending that the complaint be dismissed in part for failure to state a claim, 28 U.S.C. § 1915(e)(2)(B), and in part as duplicative of claims already alleged by plaintiff at Johnson v. Beard, C.A. No. 04-226J.

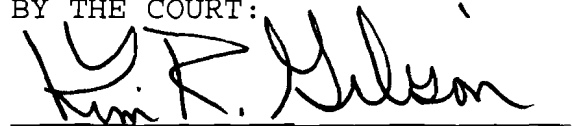
The plaintiff was notified pursuant to 28 U.S.C. § 636(b)(1), that he had ten days to serve and file written objections to the Report and Recommendation. Plaintiff has not filed objections, and the time to do so has expired.

After review of the record and the Report and Recommendation, and noting the lack of timely objections thereto, the following order is entered:

AND NOW, this 30<sup>th</sup> day of June, 2006, it is

ORDERED that plaintiff's complaint is dismissed for failure to state a claim, except for the second-hand cigarette smoke claim, which is dismissed without prejudice to the complaint pending at C.A. No. 04-226J. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,  
UNITED STATES DISTRICT JUDGE

Notice to:

Reginald Johnson EV-8591  
S.C.I. Somerset  
1600 Walters Mill Road  
Somerset, PA 15510